

REMARKS

The Office examined claims 1-22 and rejected claims 1-3, 7-13 and 17-20. With this paper, the claims are changed as indicated and so amending claims 1 and 11 (among others), canceling claims 8-9 and 17-19, and adding new claims 23-30 (which are objected-to claims 4-6, 14-16, and 21 and 22 put into condition for allowance), and also adding a new system claim for a system including an entity comprising an apparatus as in amended claim 11. Thus, the application now includes claims 1-7, 10-16, and 20-31.

Rejections under 35 USC §112, first paragraph

The rejections of claims 2-3 and 12-13 under 35 USC, §112, first paragraph, are asserted on the basis that the specification allegedly does not provide support for the language "based on" in the recitation "first indication of the quality of the signal as received by the second communication device is either an SIR estimate" and in the recitation "second indication of the quality of the signal as received by the second communication device is based on either an SIR target value." With this paper, the language "based on" is removed from claims 2-3 and 12-13. Accordingly, applicant respectfully requests that the rejections under 35 USC §112, first paragraph, be withdrawn.

Applicant nevertheless respectfully points out that at page 8, ll. 9-16, it is explained that:

The decision whether to adjust the SIR target is *based on* a bit error rate or frame error rate or some other measure of frame reliability. A common way of determining whether to increase or decrease the SIR target is to simply check whether the received frame or TTI (transmission time interval) had errors. This can be done for example by using CRC checks. [Emphasis added.]

Now since the second indication of channel quality is e.g. an SIR target, the value used for an SIR target is not confined to values given by any specific formula, i.e. it is "based on"

various possible measures of frame reliability, such as a bit error rate or frame error rate or some other measure, and thus the second indication of channel quality is also not so limited, i.e. the SIR target itself is ultimately "based on" one or another measure of frame reliability, and thus the SIR target and so the second indication of channel quality is not limited to a particular formula, but is, ultimately, based on one or another measure of frame reliability. Applicant respectfully submits that a fair and reasonable reading of the language "second indication of the quality of the signal as received by the second communication device is based on either an SIR target value ... " is simply that the formula used e.g. for SIR target in a particular implementation need not be the only possible choice for the second indicator if an SIR target is used for the second indicator. Thus, the second indicator cannot fairly be restricted to a particular set of formulas.

Also, as a logical consequence of the variability in how SIR target is defined, since the measured SIR values are compared to the SIR target, they must be subject to the same variability, so as to compare "apples to apples," i.e. the SIR target and the measured SIR value must be according to the same measure of frame quality. Thus, as is true of the second indicator, the first indicator cannot fairly be restricted to a particular set of formulas.

#### Rejections under 35 USC §102

At paragraph five of the Office action, claims 1-3, 7-8, 10-13, 17-18 and 20 are rejected under 35 USC §102 as being anticipated by U.S. Pat. No. 6,643,322 to Varma et al.

Claims 1 and 11 are here amended here to limit the invention to the second device performing the steps of the method of claim 1 or comprising the means recited in claim 11. More specifically, claims 1 and 11 now recite that the second

communication device examines a signal received from the first communication device and provides a first indication *as received by the second communication device*. [Emphasis added.] Thus, the invention as now claimed in claims 1 and 11 requires that a communication device examine a signal, determine an indicator of channel quality from the received signal, and compare the indicator with another indicator. The ACK/NACK signaling taught by Varma as a basis for deciding whether to perform link adaptation has the device receiving a signal send an indicator back to the sender of the signal, which is then compared by the sender with some target. Thus, the entity in Varma deciding to perform link adaptation is not the entity that examines a received signal and so provides an indication of channel quality (i.e. on the basis of having examined the signal), as in the invention as now claimed in claims 1 and 11.

Corresponding to the changes to claims 1 and 11, claims 2-3 and 12-13 are changed to eliminate ACK/NACK signaling in any form as a basis for performing link adaptation. Including such signaling as a basis for deciding when to perform link adaptation according to the invention is inconsistent with claims 1 and 11, as amended.

Further corresponding to the changes to claims 1 and 11, claims 8-9 and 17-19 are canceled.

In view of the narrowing of claims 1 and 11, applicant respectfully requests that all rejections under 35 USC §102 based on Varma be reconsidered and withdrawn.

#### Rejections under 35 USC §103

At paragraph 6 of the Office action, claims 9 and 19 are rejected under 35 USC §103 as being unpatentable over Varma in view of U.S. Pat. 6,085,108 to Knutsson et al.

Claims 9 and 19 are canceled by this paper.

New claims

New claims 23-26 are method claims that are in fact objected-to claims 4-6 and 21 changed so as to incorporate all the limitations of all claims from which they depend, and similarly, new apparatus claims 27-30 are in fact objected-to apparatus claims 14-16 and 22 changed so as to incorporate all the limitations of all claims from which they depend. Thus, the new claims are all believed to be allowable.

New (system) claim 31 includes all of the limitations of amended claim 11, and so is believed allowable for the same reasons as given for claim 11.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited.

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